

THOMAS E. FRANKOVICH (State Bar No. 074414)
THOMAS E. FRANKOVICH,
A Professional Law Corporation
4328 Redwood Hwy., Suite 300
San Rafael, CA 94903
Telephone: 415/674-8600
Facsimile: 415/674-9900

Attorneys for Plaintiffs
DAREN HEATHERLY and IRMA RAMIREZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DAREN HEATHERLY and IRMA RAMIREZ,
Plaintiffs,

v.

MARISCO'S LA JAIBA; XU TRUONG and
AHN HOANG, TRUSTEES OF THE
TRUONG/HOANG FAMILY TRUST, U.D.T.
dated March 18, 1997; and MIGUEL PELAYO
MONTIEL, an individual dba MARISCO'S LA
JAIBA,
Defendants.

Case No.: CV 11-1069 MEJ
Unlimited Civil Matter

**FIFTH STIPULATION EXTENDING
TIME FOR DEFENDANT XU TRUONG
and ANH HOANG, TRUSTEES OF THE
TRUONG/HOANG FAMILY TRUST TO
RESPOND TO PLAINTIFFS'
COMPLAINT AND EXTENDING DATES
IN SCHEDULING ORDER; AND
[PROPOSED] ORDER THEREON**

Plaintiffs DARREN HEATHERLY AND IRMA RAMIREZ (hereinafter "Plaintiffs") and
Defendants MARISCO'S LA JAIBA (hereinafter "Marisco's"); XU TRUONG and ANH HOANG
(erroneously sued herein as AHN HOANG), TRUSTEES OF THE TRUONG/HOANG FAMILY
TRUST, U.D.T. dated March 18, 1997 (hereinafter "Defendant Truong"); and MIGUEL PELAYO
MONTIEL, an individual dba MARISCO'S LA JAIBA (hereinafter "Montiel"), by and through their
respective counsel, respectfully request to make the following stipulation:

1. WHEREAS, all Defendants have been served with the Summons and Complaint; and
2. WHEREAS, Defendants Marisco's and Montiel have filed an Answer to the
Complaint; and

1 3. WHEREAS, the Court has entered four prior Orders extending the dates in the
2 Scheduling Order based on Stipulations agreed to by the parties.

3 4. WHEREAS, the Court's most recent order of July 29, 2011 extended the date in the
4 Scheduling Order as follows:

5 Defendant Truong's response to the Complaint due August 11, 2011.

6 Parties to complete Initial Disclosures by August 12, 2011.

7 Parties to hold a joint inspection of the premises by August 19, 2011

8 Parties to meet and confer in person to discuss settlement by August 29, 2011.

9 Parties to file "Notice of Need for Mediation" by October 4, 2011.

10 5. WHEREAS, on July 5, 2011, Defendant Truong made a written settlement offer to
11 Plaintiffs.

12 6. WHEREAS, on July 20, 2011, Plaintiffs made a written counteroffer for settlement to
13 Defendant Truong.

14 7. WHEREAS, on July 26, 2011, Defendant Truong replied with another offer of
15 settlement.

16 8. WHEREAS, Defendant Truong and Plaintiffs continue to actively attempt to negotiate
17 a settlement in the above-referenced case, and wish to reduce fees, costs and litigation expenses in
18 doing so.

19 9. WHEREAS, the parties believe it would be in the interests of efficiency and economy
20 to extend the time for Defendant Truong to respond to Plaintiff's Complaint and to further extend for
21 30 days or until the next business day if the date falls on a Saturday, Sunday or Court holiday, the
22 dates in the July 29, 2011 Order.

23 IT IS STIPULATED that:

24 1. Defendant Truong will have up to and including September 12, 2011 to respond to the
25 Complaint;

26 2. The parties will complete initial disclosures by September 12, 2011;

27 3. The parties will hold a joint inspection of the premises by September 19, 2011;

4. The last day for the parties to meet and confer in person to discuss settlement is September 29, 2011;

5. The last day for Plaintiffs to file "Notice of Need for Mediation" is November 4, 2011.

DATED: August 11, 2011

THOMAS E. FRANKOVICH,
A Professional Law Corporation
Attorneys for Plaintiffs
DAREN HEATHERLY and IRMA RAMIREZ

By: /s/ Thomas E. Frankovich
Thomas E. Frankovich

DATED: August 11, 2011

AARON & WILSON, LLP
Attorneys for Defendants
MARISCO'S LA JAIBA; MIGUEL PELAYO
MONTIEL, an individual dba MARISCO'S LA
JAIBA

By: /s/ Robert S. Aaron
Robert S. Aaron

DATED: August 11, 2011

HATCHER & RUNDEL
Attorneys for Defendants
MARISCO'S LA JAIBA; MIGUEL PELAYO
MONTIEL, an individual dba MARISCO'S LA
JAIBA

By: /s/ William W. Hatcher, Jr.
William W. Hatcher, Jr.

DATED: August 11, 2011

SPAULDING McCULLOUGH & TANSIL LLP
Attorneys for Defendants
XU TRUONG and ANH HOANG, Trustees of the
TRUONG/HOANG FAMILY TRUST, U.D.T. dated
March 18, 1997 (erroneously sued herein as AHN
HOANG)

By: /s/ Mary P. Derner
Mary P. Derner

ORDER

IT IS SO ORDERED that Defendant Truong will have up to and including September 12, 2011 to respond to the Complaint.

1 IT IS FURTHER ORDERED that the parties will complete initial disclosures by
2 September 12, 2011;

3 IT IS FURTHER ORDERED that the parties will hold a joint inspection of the premises by
4 September 19, 2011.

5 IT IS FURTHER ORDERED that the last day for the parties to meet and confer in person to
6 discuss settlement is September 29, 2011;

7 IT IS FURTHER ORDERED that the last day for Plaintiffs to file "Notice of Need for
8 Mediation" is November 4, 2011.

9
10 Dated: August 11, 2011



THE HONORABLE MARIA-ELENA JAMES
United States Magistrate Judge